Supreme Court, U. S.
FILED
JUL 18 1972
MICHAEL RODAK, JR., CLERK

APPENDIX

In the Supreme Court of the United States

OCTOBER TERM 1971

No. 71-1069

ASSOCIATED ENTERPRISES INC., AND
JOHNSTON FUEL ~~MINES~~, Liners
Appellants

vs.

TOLTEC WATERSHED IMPROVEMENT DISTRICT
Appellee

APPEAL FROM THE SUPREME COURT OF WYOMING

Jurisdictional Statement Filed Feb. 22, 1972
Probable Jurisdiction Noted June 12, 1972

INDEX

ITEMS	PAGE OF RECORD	PAGE OF APPENDIX
Petition	1	1
Summons	4	5
Answer and Cross Claim	5	8
Reply	10	13
Motion to Intervene	12	14
Separate Answers of Johnston Fuel Liners	14	16
Stipulation of Facts	15	18
Interrogatories	18	21
Answer to Interrogatories	20	23
Order and Judgment	25	26
Notice of Appeal to the Supreme Court of Wyoming	27	29
Mandate of Wyoming Supreme Court	42	31
Notice of Appeal to United States Supreme Court	43	33

STATE OF WYOMING)
) SS.
COUNTY OF ALBANY)

IN THE DISTRICT COURT
SECOND JUDICIAL DISTRICT

TOLTEC WATERSHED IMPROVEMENT DISTRICT,	)	
Plaintiff,	)	
vs.	)	**PETITION**
ASSOCIATED ENTERPRISES, INC.,	)	
Defendant.	)	

COMES NOW the Plaintiff and respectfully petitions the Court and alleges the following facts:

1.

Toltec Watershed Improvement District is duly organized under the laws of the State of Wyoming and as such possesses the power of condemnation.

2.

Plaintiff is desirous of building a reservoir on the North Laramie River in the northern portion of Albany County, Wyoming.

3.

Plaintiff believes that said reservoir should properly be built upon the lands belonging to the Defendant described as follows:

Township 26 North, Range 74 West of the 6th P.M.

Section 16: SE¼, S½NE¼

Section 21: NE¼, SE¼, E½NW¼

4.

Plaintiff is not able to determine whether construction of said dam on the foregoing lands is feasible until it has completed its surveys and foundation studies.

5.

Plaintiff is authorized by law to enter upon said lands for the purpose of making said surveys but as a matter of courtesy has requested Defendant's permission to enter upon the lands and make the studies.

6.

Defendant has refused to grant said permission.

7.

Because of the planning and construction timetable set forth by the Soil Conservation Service of the U. S. Department of Agriculture it is necessary that Plaintiff enter upon said

8.

lands and complete said surveys at the earliest possible time.

Plaintiff has agreed in the past to pay for all damages caused owner by its operations and it would also do so in the future.

WHEREFORE PLAINTIFF PRAYS that the Court make and enter an Order allowing Plaintiff, its employees, agents, contractors, and cooperating parties, such as the Soil Conservation Service of the U. S. Department of Agriculture, to enter upon the foregoing described lands for the purpose of carrying out foundation studies for a dam site, including the excavation of test pits, the drilling of test holes, and reasonable ingress and egress over and across the lands of the Defendant to and from the lands specifically described herein.

OR IN THE ALTERNATIVE PLAINTIFF PRAYS AS FOLLOWS:

1.

For an injunction enjoining Defendant or its agents from interferring with the rights of the Plaintiff, its employees, agents, contractors, or cooperating parties from entering upon the aforegoing described lands for the lawful purpose of carrying out surveys and foundation studies for a dam site, including the excavation of test pits, the drilling of test holes and reasonable ingress and egress over

and across the lands of the Defendant to and from the lands specifically described herein.

s/ FRED W. PHIFER
Attorney for Plaintiff
Box 180
Wheatland, Wyoming 82201

APPLICATION FOR HEARING

COMES NOW the Plaintiff in the above entitled action and respectfully moves the Court for an Order fixing the earliest possible time and place for a hearing on the foregoing Petition.

s/ FRED W. PHIFER
Attorney for Plaintiff

SUMMONS IN A CIVIL ACTION

The State of Wyoming,)
)ss.
County of Albany)

IN THE DISTRICT COURT
Second Judicial District
Civil Action No. 14417

TOLTEC WATERSHED IMPROVEMENT DISTRICT, Plaintiff	)	
vs.	)	**SUMMONS**
ASSOCIATED ENTERPRISES, INC., Defendant	)	

To the above named defendant: Associated Enterprises, Inc.

YOU ARE HEREBY SUMMONED and required to file with the Clerk and serve upon the Plaintiff's attorney an answer to the complaint which is herewith served upon you, within 20 days after the service of this Summons upon you, exclusive of the day of Service. (If service upon you is made outside of the State of Wyoming, you are required to file and serve your answer to the Complaint within 30 days

after service of this Summons upon you, exclusive of the day of service). If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.

Dated June 22, 1970.

(Seal of District Court)

Phil Krahn
Clerk of Court

By: Don Koerting
Deputy Clerk

Fred W. Phifer
Attorney for Plaintiff
Box 180, Wheatland, Wyoming 82201

RETURN

State of Wyoming,)
)ss.
County of Albany)

To be used by Wyoming Sheriff, Under Sheriff or Deputy

I, Ted R. Burnstad Sheriff in and for said County of Albany, in the State aforesaid, do hereby certify that I received the within Summons, together with a copy of the Complaint filed in the above matter, and that I served the same in the County aforesaid on the 24 day of June, 1970, by delivering a copy of the same, together with a copy of the Complaint, to Associated Enterprises, Inc. by leaving with Al Bennett Foreman an employee for E. John-

son and Associated Enterprises by leaving with Mrs. Al Bennett, a person over the age of 14 years at the usual place of residence.

T. R. Burnstad
Sheriff

IN THE DISTRICT COURT IN AND FOR ALBANY COUNTY, WYOMING

TOLTEC WATERSHED IMPROVEMENT DISTRICT,	)	
Plaintiff,	)	
-vs-	)	**Civil Action No. 14417**
ASSOCIATED ENTERPRISES, INC.,	)	
Defendant.	)	

ANSWER

1.

Answering paragraph 1 of the Petition the Defendant denies that the Plaintiff is duly organized under the laws of the State of Wyoming or possesses the power of condemnation or the right of entry onto the lands of the Defendant.

2.

Answering paragraph 2 of the Petition the Defendant has no knowledge of the desires of the Plaintiff to build a reservoir and therefore denies paragraph 2 of the Petition.

3.

Defendant has no knowledge of Plaintiff's belief as to where it should build its reservoir, and denies that the Plaintiff's reservoir should

be constructed on Defendant's lands and alleges that there are many excellent reservoir sites on the North Laramie River upon lands of others, including lands of members of Plaintiff, and the Plaintiff should investigate and construct a reservoir upon their own lands.

4.

Defendant has no knowledge of Plaintiff's ability to make a feasibility study or the time required for same and therefore denies the allegation of paragraph 4 of the Petition.

5.

Defendant denies Plaintiff is authorized to enter upon lands described in the Petition to make a survey.

6.

Defendant granted permission to Plaintiff to enter upon its lands and make surveys in the year 1966, pursuant to a written agreement which provided that the Plaintiff would furnish the Defendant with all data and information obtained from its studies, surveys, and drilling. That pursuant to said written agreement, the Defendant did allow the Plaintiff to make surveys and foundation studies upon the Defendant's lands at a time when the making of such surveys and studies would not interfere with the Defendant's use and enjoyment thereof, but that said surveys and studies have never been furnished Defendant, all in derogation of the written agreement between the parties. That to allow entry again is in

effect to grant possession of such lands to the Plaintiff without adequate and just compensation. That at the time entry was requested by Plaintiff, Defendant was calving his cows on such lands and was commencing to irrigate some of the land which is a hay meadow, and any entry by anyone with survey crews and drill rigs would interfere with Defendant's use and possession of his real property, would interfere with his calving and haying operations, and would cause irreparable injury and damage for which Defendant has no adequate relief at law.

7.

That the Defendant has no knowledge of the allegations of paragraph 7 of the Petition and therefore denies the same.

8.

That the Defendant admits the Plaintiff agreed in the past to pay for damages caused by it pursuant to a written agreement, but that the Plaintiff has not complied with the terms of said agreement.

9.

Defendant alleges that the Plaintiff is not a validly organized soil conservation district as it was created and organized under a statute of Wyoming which violates the Wyoming Constitution and the United States Constitution in that such statute violates the "one man, one vote" concept and guarantees of said Constitution and that said district boundaries were

intentionally gerrymandered to prevent a fair election.

10.

That the Plaintiff was not organized in compliance with the laws of the State of Wyoming.

11.

Defendant alleges the Petition fails to state a claim upon which relief may be granted.

12.

Defendant alleges this Court has no jurisdiction in this proceeding and action.

CROSS - CLAIM

Comes now the Defendant and for its claim against the Plaintiff and Cross-Defendant alleges:

1.

That on August 1, 1969 the parties hereto entered into a written agreement pursuant to the terms of which the Defendant would grant permission unto the Plaintiff to enter upon its lands and in exchange for said entry all data and information obtained from such foundation studies to be made by the agent of the Plaintiff would be furnished unto the Defendant.

2.

That Plaintiff and Cross-Defendant has never furnished the information obtained

from foundation studies made upon the Defendant's land and has refused to do so.

3.

That the Cross-Defendant has failed to comply with the terms and conditions of the parties' written agreement dated August 1, 1969. That the Cross-Plaintiff and Defendant has no adequate remedy at law and is being damaged and will be damaged indefinitely if the greement is abandoned by the Cross-Defendant in that it will not have such information and that the Cross-Defendant should be required to conform to the provisions of said written agreement and furnish such information.

WHEREFORE, the Defendant prays that the Complaint of the Plaintiff be dismissed and that the Defendant and Cross-Plaintiff have judgment against the Plaintiff and Cross-Defendant for delivery to Defendant and Cross-Plaintiff of all information obtained from the foundation studies made upon the lands of the Defendant and Cross-Plaintiff.

BURGESS, KENNEDY & DAVIS

By Henry A. Burgess
Attorney for Defendant &
Cross-Plaintiff
P. O. Box 728
Sheridan, Wyoming

(Certificate of Service omitted in printing)

STATE OF WYOMING)
) SS
COUNTY OF ALBANY)

IN THE DISTRICT COURT
SECOND JUDICIAL DISTRICT
Civil Action No. 14417

TOLTEC WATERSHED IMPROVEMENT DISTRICT,
Plaintiff,
vs.
ASSOCIATED ENTERPRISES, INC.,
Defendant.

REPLY

COMES NOW the Plaintiff and for its Reply to the Defendant's Cross-Claim alleges:

1.

Plaintiff admits paragraph 1 of Defendant's Cross-Claim and denies paragraphs 2 and 3.

WHEREFORE Plaintiff prays that Defendant take nothing by his Cross-Claim.

s/ FRED W. PHIFER
Attorney for Plaintiff

(Certificate of Service omitted in printing)

IN THE DISTRICT COURT IN AND FOR ALBANY COUNTY, WYOMING

TOLTEC WATERSHED IMPROVEMENT DISTRICT, Plaintiff,	)	
vs.	)	Civil Action No. 14417
ASSOCIATED ENTERPRISES, INC., Defendant.	)	

MOTION TO INTERVENE

Comes now Johnston Fuel Liners and moves the court to enter its order allowing it to intervene in the above entitled course as a party defendant and allow it to file its answer herein, a copy of which answer to plaintiff's petition is attached, and in support thereof invites the court's attention to the following:

1. That Johnston Fuel Liners is a Wyoming corporation owning lands contigious to the lands described in plaintiff's petition.

2. That movant owns cattle and runs them upon its lands and in addition has a contract to run its cattle on the lands described in the petition of plaintiff and pays valuable consideration therefor.

3. That any entry upon the lands of Toltec is an interference with movant's right to its use and possession of said lands.

4. That movant was not allowed to vote in the referendum held May 12, 1969 are (in) the creation of the Toltec Watershed District.

5. That the movant's rights are different from those represented by Associated Enterprises, Inc., and it is not represented by Associated Enterprises, Inc., and the main action has a question of law and fact in common with movant and movant may be bound by any judgment entered in the action:

BURGESS, KENNEDY & DAVIS

By Henry A. Burgess
P. O. Box 728
Sheridan, Wyoming

(Certificate of Service omitted in printing)

IN THE DISTRICT COURT IN AND FOR ALBANY COUNTY, WYOMING

TOLTEC WATERSHED IMPROVEMENT DISTRICT,	)	
Plaintiff,	)	
vs.	)	**Civil Action No. 14417**
ASSOCIATED ENTERPRISES, INC., Defendant.	)	

SEPARATE ANSWER OF JOHNSTON FUEL LINERS

1.

That this defendant is incorporated under the laws of the State of Wyoming and runs cattle upon the lands described in the complaint pursuant to a contract with Associated Enterprises, Inc., the owner of said lands.

2.

That this defendant is not a landowner within the definition of WS 1957 sec. 41-351.1 (c) but does occupy the lands described in plaintiff's petition which land is within the plaintiff district and that plaintiff's entry upon such lands will interfere with and damage its quiet use and enjoyment of such lands.

3.

That the defendant objects to the entry by plaintiff for the purposes alleged in the pe-

tition upon the lands described in the petition and denies plaintiff has any right to enter upon such lands.

WHEREFORE this defendant prays the petition be dismissed.

BURGESS, KENNEDY & DAVIS

By Henry A. Burgess
Attorneys for Defendant
Johnston Fuel Liners
P. O. Box 728
Sheridan, Wyoming

IN THE DISTRICT COURT IN AND FOR ALBANY COUNTY, WYOMING

TOLTEC WATERSHED IMPROVEMENT DISTRICT,	)	
Plaintiff,	)	
vs.	)	**Civil Action No. 14417**
ASSOCIATED ENTERPRISES, INC.,	)	
Defendant.	)	

STIPULATION OF FACTS

It is stipulated and agreed between Plaintiff and Defendant by their undersigned counsel that if witnesses were sworn and testified in the above action and the available documentary proof introduced, that the following facts would be established, and the parties agree to the same, the evidence of which, except for this agreement need not be introduced in open Court, and that this action may be disposed of by the Court upon the following facts:

1.

That Plaintiff was organized under the provisions of W. S. 1957 Sec. 41-354.1 through 41-354.26 and the referendum held on May 12, 1969 was conducted in accordance with the statutory requirements.

2.

That Johnston Fuel Liners is a Wyoming corporation and owns cattle which it grazes upon the land described in the petition, and which land is also included within the boundaries of Plaintiff. That the corporate officers of Johnston Fuel Liners are the same persons acting as the corporate officers of Associated Enterprises, Inc., but that part of the capital stock of Associated Enterprises, Inc., is owned by persons not stockholders in Johnston Fuel Liners, so that the ownership of the capital stock of two corporations is not identical nor common to the two corporations.

3.

That Johnston Fuel Liners is not a landowner as defined by W. S. 1957 Sec. 41-351.1 (c), and although given notice of the time and place of the referendum, had no legal right to vote and did not vote.

4.

That if Toltec is duly and legally organized, it has the right and power of entry under W. S. 1957 Sec. 1-794 and power of condemnation under W. S. 1957 Sec. 41-354.13C for the legal purposes therein stated.

5.

That Plaintiff desires to build a reservoir on lands owned by Associated Enterprises, Inc., situated in Albany County, Wyoming, which lands are included in said district.

6.

That Plaintiff had requested permission to enter upon Defendant's lands in June 1970 for purposes of survey and examination, and the request was refused.

7.

That Plaintiff has agreed to pay for any damages caused by its entry upon Defendant's lands.

8.

That Defendant has received the information and results of Plaintiff's studies for the year 1969.

That the legal issue presented by the foregoing stipulated facts is as follows:

Is the statutory procedure under W. S. 1957 Sec. 41-354.1 through 41-354.26 for the creation of a Watershed Improvement District constitutional?

DATED August 12, 1970.

s/ FRED W. PHIFER
Attorney for Plaintiff

BURGESS, KENNEDY & DAVIS

By Henry A. Burgess
Attorneys for Defendants
Associated Enterprises, Inc.,
and Johnston Fuel Liners

STATE OF WYOMING)
) SS
COUNTY OF ALBANY)

IN THE DISTRICT COURT
SECOND JUDICIAL DISTRICT
Civil Action No. 14417

TOLTEC WATERSHED IMPROVEMENT DISTRICT,
Plaintiff,
vs.
ASSOCIATED ENTERPRISES, INC.,
Defendant.

INTERROGATORIES

THE DEFENDANT, Associated Enterprises, Inc., will please answer the following Interrogatories within fifteen days after service in accordance with Rule 33 of the Wyoming Rules of Civil Procedure.

1. What is the name and title of the officer answering this Interrogatory?

2. When did Johnston Fuel Liners first commence using the land of Associated Enterprises located in Albany County?

3. Has this use been continuous since then? If not, please give the inclusive dates of the use.

4. Has Associated Enterprises ever owned any cattle that were run on the land which is included in the Toltec Watershed Improvement District and owned by Associated Enterprises? If so, when?

5. What compensation is paid by Johnston Fuel Liners to Associated Enterprises for the use of this land? Please list dates of payment and amounts paid within the last five years.

6. Please attach hereto copies of all the leases between Johnston Fuel Liners and Associated Enterprises covering the land here in question.

7. Please attach hereto copies of any contracts wherein Johnston Fuel Liners has contracted for the use and enjoyment of the land here in question.

Dated this 26th day of August, 1970.

s/ FRED W. PHIFER
Attorney for the Plaintiffs

(Certificate of Service omitted in printing)

IN THE DISTRICT COURT IN AND FOR ALBANY COUNTY, WYOMING

TOLTEC WATERSHED IMPROVEMENT DISTRICT,	)	
Plaintiff,	)	
vs.	)	Civil Action No. 14417
ASSOCIATED ENTERPRISES, INC.,	)	
Defendant.	)	

ANSWERS TO INTERROGATORIES

Defendant, Associated Enterprises, Inc., by Kenneth Cox, its Secretary and Treasurer, answers the Interrgatories served on it by Plaintiff as follows:

INTERROGATORY NO. 1:

Q. What is the name and title of the officer answering this Interrogatory?

A. Kenneth Cox, Secretary and Treasurer.

INTERROGATORY NO. 2:

Q. When did Johnston Fuel Liners first commence using the land of Associated Enterprises located in Albany County?

A. At the time Associated Enterprises acquired the land in 1959 which is within the

boundaries of the Toltec Watershed Improvement District.

INTERROGATORY NO. 3:

Q. Has this use been continuous since then? If not, please give the inclusive dates of the use.

A. Yes, up to and including the date of this Answer.

INTERROGATORY NO. 4:

Q. Has Associated Enterprises ever owned any cattle that were run on the land which is included in the Toltec Watershed Improvement District and owned by Associated Enterprises? If so, when?

A. Associated Enterprises purchased some cattle in 1969 and ran the cattle on lands in the Toltec District.

INTERROGATORY NO. 5:

Q. What compensation is paid by Johnston Fuel Liners to Associated Enterprises for the use of this land? Please list dates of payment and amounts paid within the last five years.

A. Johnston Fuel Liners exchanges the use of the Wedemeyer Ranch near Wheatland, Wyoming for the Malmquist Ranch (a portion of which is in the Toltec District) and in addition pays an annual rental of $2,000 in monthly installments of $166.67 to Associated Enterprises. This agreement was entered into in 1959 and is still existent.

INTERROGATORY NO. 6:

Q. Please attach hereto copies of all the leases between Johnston Fuel Liners and Associated Enterprises covering the land here in question.

A. The agreement is reflected on the journals and records of the companies containing the payments and disbursements and has been performed by the corporations for over ten years. No single written lease document exists. The books and records of Associated Enterprises, Inc. and Johnston Fuel Liners so reflect the agreement, which is on a year to year basis, and it has been approved by the respective boards of directors of the corporations.

INTERROGATORY NO. 7:

Q. Please attach hereto copies of any contracts wherein Johnston Fuel Liners has contracted for the use and enjoyment of the land here in question.

A. See answer to Interrogatory No. 6 above.

KENNETH COX

(Jurat omitted in printing)

(Certificate of Service omitted in printing)

IN THE DISTRICT COURT IN AND FOR ALBANY COUNTY, WYOMING

TOLTEC WATERSHED IMPROVEMENT DISTRICT,	)	
Plaintiff,	)	
vs.	)	**Civil Action No. 14417**
ASSOCIATED ENTERPRISES, INC., and JOHNSTON FUEL LINERS,	)	
Defendants.	)	

ORDER AND JUDGMENT

The above-entitled action came on regularly to be heard on October 2, 1970, by the Court on the Motion of Johnston Fuel Liners to intervene and for trial, the parties having stipulated the facts in this case. The Plaintiff appeared by its counsel, Fred W. Phifer, and the Defendants appeared by their counsel, Henry A. Burgess, and both counsel having submitted their briefs and made oral arguments to the Court, and the Court having considered the briefs, oral arguments of counsel, the Stipulation of Facts, and the Interrogatories and Answers to the Interrogatories, and being duly and fully advised in the premises finds that Johnston Fuel Liners should be al-

lowed to intervene as a Defendant in this case, that its Answer may be filed herein, and that the pleadings may be amended to show it as a Defendant, and that the Wyoming Statutes under which the Plaintiff was organized were constitutional and valid.

IT IS THEREFORE HEREBY ORDERED that the Motion of Johnston Fuel Liners, a corporation, to intervene in this action is hereby granted, that its Answer shall be filed forthwith, and that title of this case is hereby amended to include it as a party defendant.

IT IS FURTHER ORDERED by the Court that the Plaintiff, its employees, agents, contractors, and cooperating parties such as the Soil Conservation Service of the United States Department of Agriculture may enter upon the lands of the Defendant, Associated Enterprises, and lands upon which the Defendant, Johnston Fuel Liners, runs cattle, and which are contained within the boundaries of the Toltec Watershed Improvement District for the purpose of carrying out foundation studies for a dam site, including the excavation of test pits, the drilling of test holes, and reasonable ingress and egress over and across the lands of the Defendants to and from the lands aforementioned.

Done in open court this 19 day of October, 1970.

VERNON BENTLEY
Judge

Approved:

FRED W. PHIFER
Attorney for Plaintiff

BURGESS, KENNEDY & DAVIS
by Henry A. Burgess
Attorneys for Defendants

IN THE DISTRICT COURT IN AND FOR ALBANY COUNTY, WYOMING

TOLTEC WATERSHED IMPROVEMENT DISTRICT,	)	
Plaintiff,	)	
vs.	)	**Civil Action No. 14417**
ASSOCIATED ENTERPRISES, INC., and JOHNSTON'S FUEL LINERS,	)	
Defendants.	)	

NOTICE OF APPEAL TO THE SUPREME COURT

Notice is hereby given that Associated Enterprises, Inc. and Johnston's Fuel Liners, Defendants above named, hereby appeal to the Supreme Court of the State of Wyoming, from that portion of an Order and Judgment entered in the above entitled case on October 19, 1970, ordering that the Plaintiff, if employees, agents, contractors, and cooperating parties such as the Soil Conservation Service of the United States Department of Agriculture, may enter upon the lands of the Defendant, Associated Enterprises, and lands upon which the Defendant, Johnston's Fuel Liners, runs cattle, and which are contained within the boundaries of the Toltec Watershed Improvement District,

for the purpose of carrying out foundation studies for a damsite, including the excavation of test pits, the drilling of test holes, and reasonable ingress and egress over and across the lands of Defendants to and from the lands before mentioned.

BURGESS, KENNEDY & DAVIS

By Henry A. Burgess
P. O. Box 728
Sheridan, Wyoming 82801

(Certificate of Service omitted in printing)

MANDATE OF AFFIRMANCE

In the Supreme Court)
of the)
State of Wyoming)

To the Honorable the District Court of the County of Albany, Greeting:

WHEREAS, Associated Enterprises, Inc., and Johnston Fuel Liners, on the 23rd day of December A. D. 1970, filed a Record on Appeal in the Supreme Court of the State of Wyoming to obtain the reversal of a judgment rendered by you on the 19th day of October, A. D. 1970, and entered on the 19th day of October, A. D. 1970, in a cause pending before you wherein Toltec Watershed Improvement District was plaintiff and Associated Enterprises, Inc., and Johnston Fuel Liners, were defendants; and

WHEREAS, The following proceedings were had and entered in the Supreme Court in said cause on the 22nd day of November, A. D. 1971, to-wit:

"This cause having been heretofore taken under advisement, and the court, being now fully advised in the premises, does say and find there is no reversible error in the record of the proceedings of the District Court of Albany County.

It is therefore Ordered and Adjudged, for the reasons stated in the opinion herein this

day delivered and filed, that the judgment of the District Court be, and the same is hereby, affirmed. It is further Ordered that the costs of this appeal be taxed against the appellants; and the court doth certify there is reasonable cause for the appeal."

COSTS IN THE SUPREME COURT:

Brief of Appellee, 22 pages @ 75¢ per page for five copies ----------$16.50

NOW, THEREFORE, You are commanded without delay to carry into execution and effect the judgment so as aforesaid rendered by you, in the manner provided by law.

WITNESS, The Honorable John J. McIntyre, Chief Justice of said Supreme Court, and the Seal thereof, at Cheyenne, this 6th day of January, A. D. 1972.

ANN OELAND
Clerk

(Seal)

IN THE DISTRICT COURT IN AND FOR ALBANY COUNTY, WYOMING

ASSOCIATED ENTERPRISES, INC., and JOHNSTON FUEL LINERS,	)
Appellants, (Defendants below),	)
-vs-	)
TOLTEC WATERSHED IMPROVEMENT DISTRICT,	)
Appellee, (Plaintiff below).	)

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

Notice is hereby given that all of the appellants above named hereby appeal to the Supreme Court of the United States from the final judgment of the Wyoming Supreme Court's affirming decision entered in Case No. 3958 on November 22, 1971.

This appeal is taken pursuant to United States Code Title 28, Section 1257(2).

ELLSWORTH E. LONABAUGH
Attorney for Appellants
P. O. Box 728
Sheridan, Wyoming 82801

(Certificate of Service omitted in printing)

Supreme Court of the United States

No. 71-1069

Associated Enterprises, Inc., and
Johnston Fuel Liners,

Appellants,

v.

Toltec Watershed Improvement
District

APPEAL from the Supreme Court of the State of Wyoming.

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted.

June 12, 1972